

**CAM LOCKS (MANAGEMENT
COMPANY) LTD
PLAYGROUND AND OPEN SPACE
BANNOLD ROAD
WATERBEACH
CB25 9BZ**

S123 BEST VALUE APPRAISAL

October 2019
On behalf of Waterbeach Parish Council

Carter Jonas

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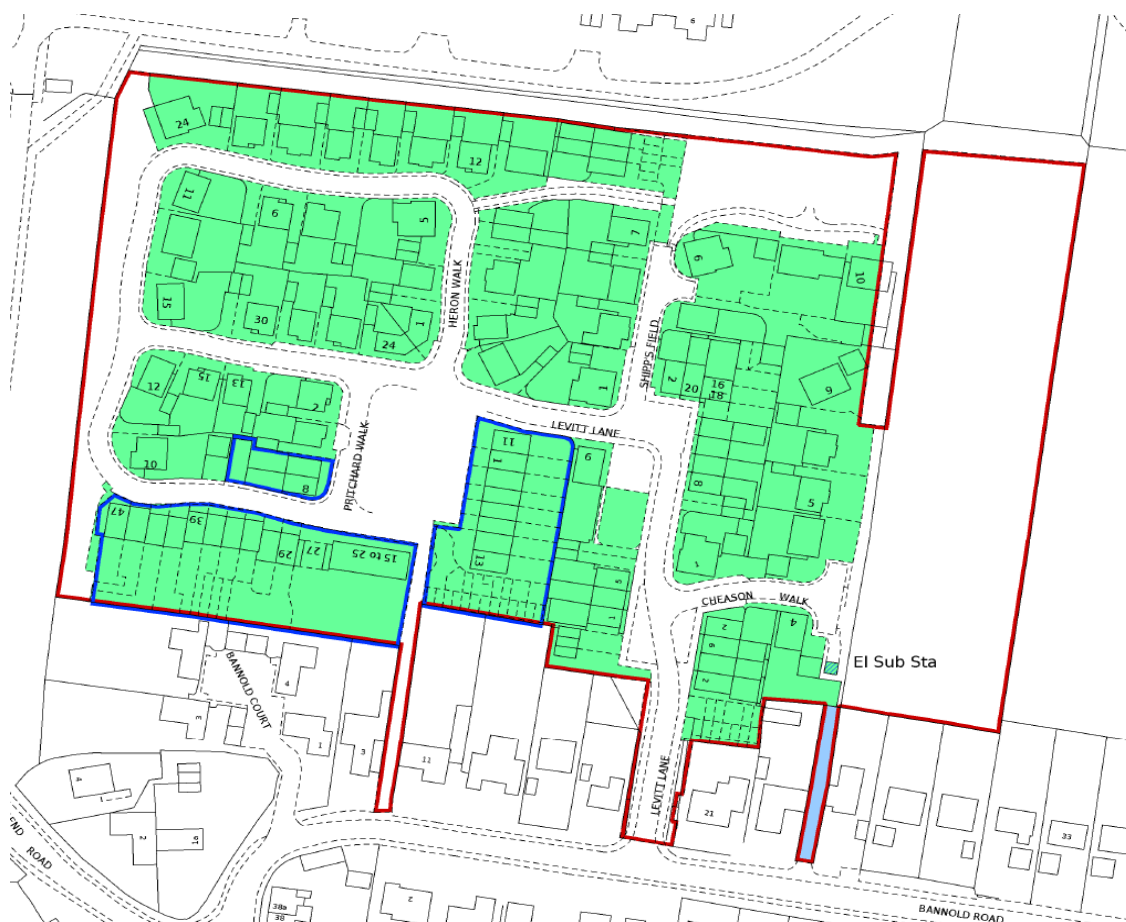
1.0 THE BRIEF

Carter Jonas have been instructed by Waterbeach Parish Council in connection with a request by Cam Locks (Management Company) Ltd to assume responsibility for the playground and open space areas, excluding the balancing pond, to the north and east of Shipp's Field, Waterbeach. We are instructed to prepare a report detailing the implications, including benefits, obligations and risks to Waterbeach Parish Council of assuming control of these areas. The financial 'Best Value' obligations placed upon the Parish Council are mirrored within S123 of the Local Govt Act 1972.

At the time of instruction it was unclear whether the intention, on the part of Cam Locks, was to transfer the title of the land in question to the Parish Council, to be included within their asset register or simply enter in to a management agreement with the Parish Council. However, a recent conversation with Christopher Rushmer, a representative of the Cam Locks management committee, has confirmed that the intention is for the freehold to transfer either directly to the Parish Council from Morris Homes, the original owner, or via the present Management Company. It has also become clear therefore, that the intention is for the insurable risk for public liability to also pass directly to the Parish Council along with all other duty of care obligations associated with the site.

2.0 THE SITE

Morris Homes Title Plan





Play area looking east



Open space looking west from slope



Open space looking north



Balancing pond in south east corner

3.0 BACKGROUND

It is understood from Christopher Rushmer, that an approach was made to the Parish Council following an article in the local parish magazine the 'beach news' which was apparently seeking freehold parcels of land for public amenity. Mr Rushmer as part of the Management Company, (Cam Locks) formed out of the residents of the development, contacted the Parish Council accordingly.

Upon sale of each completed Morris Homes house, approximately 10 years ago, the management of the open space areas and play area was apparently transferred into a management company, constituting approximately 62 residents, who had each purchased a property. According to Mr Rushmer, a small number of residents were excluded from this arrangement by virtue of a prior agreement that the Parish Council were to adopt it under Local Authority S106 provisions, which subsequently failed to complete. Each remaining resident currently contributes £191.00 per annum (£11,842 annually) into the management company budget to administer and deal with all those area of open space and amenity, included within the red line boundary of the title plan. Cam Locks in turn employ CS2, a managing agent based in Milton Keynes, to deal with all aspects of maintenance and insurance of all areas, including the play area. Their contact details are displayed on a board adjacent to the Children's play area.

Whilst the original Cam Locks proposal had been to take a transfer of part of the Morris Homes title, (see appendix 1) containing those areas now being offered to the Parish Council and in turn transfer those to the Parish Council, they have discovered the legal costs for doing so are prohibitive. Their suggestion now is that if agreement is reached, the transfer should take place directly between Morris Homes and the Parish Council alone. It should be noted that the Title expressly states that any transfer or disposition of the registered estate requires a certificate signed by the Waterbeach Level Internal Drainage Board.

4.0 INSPECTION AND ISSUES ARISING

A site visit took place on 2 October in conjunction with the Clerk and Chair of the Parish Council and the proposed areas for transfer were inspected accordingly.

Commencing in the south east corner it was immediately apparent that, whilst not included in any transfer, the balancing pond, although empty at present, contained no lifesaving equipment or perimeter fencing, with a solitary warning sign only. In the event that the pond was to fill with water and whilst retained by Cam Locks, in terms of duty of care and ultimate risk assessment, the Parish Council could be joined in any action because they knowingly allowed the situation to prevail. A condition of any transfer should include the fencing of the pond and provision of a lifesaving buoy.

The path leading north, whilst a bound gravel finish, is showing some signs of wear including cracking and will require regular inspection and ongoing maintenance and ultimately replacement of the surface, for which a sinking fund should be provided.

On the eastern boundary bisecting the gravel path, lies a definite slope with a track leading to the boundary with the neighbouring development. This is obviously well utilised and being unmade will become slippery in wet conditions presenting a hazard to those using his route as a thoroughfare. The potential for slips and trips in this area is considerable and consideration should be given to metalling the surface accordingly. Another point to note is that none of the area is lit from a safety and security perspective and demands may be made of the Parish Council to provide suitable lighting in the future, particularly if other areas within their control are illuminated.

It is unclear from the title plan who has ultimate responsibility for the boundaries as hedges and ditches are present on both sides which appear unkempt at present and may require clearance and maintenance accordingly. Boundary responsibilities should be identified in any transfer.

The play area itself appears well maintained with modern equipment. I have spoken to CS2, the agent for Cam Locks and emailed the contact provided, requesting a copy of the play equipment inventory with details of inspection records and items nearing the end of their life, so that future liabilities for replacement equipment can be identified in terms of sinking fund provision. These records should be provided as a pre-requisite of any transfer along with a copy of the last filled annual accounts for Cam Locks Management Company Ltd.

Christopher Rushmer of Cam Locks has been very helpful in identifying some of the current costs. He has specifically commented as follows:

“As promised I have looked at the expenses relevant to the Parish Council for 2018. They show the following:

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| <i>Gardening and Landscaping</i> | <i>£4,150</i> |
| <i>Insurance for open areas.</i> | <i>£750</i> |
| <i>External repairs and maintenance</i> | <i>£1,060</i> |
| <i>Total</i> | <i>£5,960</i> |

The above figures have been rounded up or down very slightly, but only by a few pence. Those items which would not apply to the Council such as Management, Director's Insurance and Reserves, are not included.

It may be that Insurance for the Council could be included in an existing policy for a smaller amount or even no extra charge

The Gardening cost for the Council May be lower than that shown above.

Nothing has been charged for Playground Maintenance so it may have been included in the item for external repairs.

I do not yet know what the actual figures will be for this year.”

He has further advised that the cost of maintaining the grassed areas alone, including fortnightly grass cutting during the season is at an annual cost in excess of £2000, which is managed for them by CS2.

Christopher was also able to confirm that the public liability insurance is arranged for them through their agent but was unaware of the premium involved for 2019 although the majority of the current £11,842 budget is utilised annually for the entire estate with a small surplus utilised for a sinking fund. It would be prudent for Parish Council to contact their own insurers to seek an indicative additional premium for adding these areas, under discussion, to their policy.

5.0 TERMS OF TRANSFER

The question was asked of Christopher Rushmer if the intention was to transfer the land with the benefit of the precept paid by the 62 residents. His views was that this would not be the case as there are other parcels of land on the estate, in addition to the balancing pond that will not transfer and will be retained. It may be that a pro-rata proportion might be available therefore, which should be explored if this matter proceeds to contract, given the obvious direct costs which

will fall on the parish Council as a consequence. He also suggested that the land potentially has a transfer sales value for Cam Locks which they would reduce to a notional £1, if the Council were to accept the transfer. This would be in addition to the payment by the Parish Council of the legal fees necessary to deal with the transfer of the land from Morris Homes, assuming Cam Locks do not act as the intermediary.

6.0 CONCLUSION

It is clear from my inspection with the Chair and Clerk of the Parish Council that the area in question is not without its issues, a number of which have been explored above. Cam Locks have highlighted that the opportunity to suggest a transfer of responsibilities arose from a direct request within the Parish magazine, by the Council themselves and if correct, they understandably see an opportunity to reduce their own liabilities accordingly. A degree of historical animosity appears to exist between Cam Locks and Morris Homes relating to the method of initial transfer and the absence of uniformity relating to obligations on all householder to contribute. This it seems was due to the absence of a fully completed S 106 agreement at the time, which has resulted in a loss of income to deal with the areas involved. Cam Locks have also indicated the heightened use from neighbouring developments has put pressure on the area in question and they are clearly concerned that their budget will be insufficient to deal with ongoing maintenance issue going forward.

Typically in these situations the party wishing to transfer a liability in perpetuity would offer a commuted sum. Local Authorities have previously sort the equivalent of the Net Present Value of 10 years annual maintenance, as a dowry, although this seems unlikely in this instance, given Cam Locks other ongoing obligations, for the remainder of the area.

It may be that in considering both the financial and Duty of Care obligations of taking on the above, the Parish Council instead wish to consider an alternative hybrid proposal, involving a partnership with Cam Locks. The Parish Council may wish to consider offering to take over the managing agent function of CS2, which may give access to more competitive pricing for services locally at a reduced cost. The Parish Council could offer their expertise to Cam Locks for a negligible fee, again at a saving to the fees currently paid to CS2.

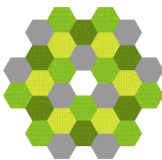
Alternatively the Parish Council may wish to take responsibility for a limited transfer of the play area alone, in conjunction with their management of other areas locally, benefiting from economies of scale accordingly, whilst reducing their overall risk exposure.

Prior to any decision, it would be prudent for the Parish Council to complete a full risk assessment of the areas in question to better understands the risk posed and the mitigation that may be required.

Appendix 1: **LAND REGISTRY TITLE PLAN AND REGISTER VIEW**

HM Land Registry
Current title plan

Title number **CB328545**
Ordnance Survey map reference **TL4966SE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Cambridgeshire : South Cambridgeshire**



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This is a print of the view of the title plan obtained from HM Land Registry showing the state of the title plan on 10 October 2019 at 14:58:12. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Peterborough Office.

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 10 OCT 2019 AT 14:57:41. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, PETERBOROUGH OFFICE.

TITLE NUMBER: CB328545

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

CAMBRIDGESHIRE : SOUTH CAMBRIDGESHIRE

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land on the north side of Bannold Road, Waterbeach.
- 2 (24.10.2008) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.
- 3 (02.04.2009) The land tinted green on the title plan has been removed from this title and separately registered.
- 4 (02.04.2009) The land has the benefit of any legal easements reserved by transfers of land removed from the title shown tinted green on the title plan.
- 5 (02.04.2009) Where the parts tinted green on the title plan adjoin buildings, walls, fences and other boundary structures constructed on the boundaries of the parts so tinted, rights of entry for the purpose of inspecting, cleaning, maintaining, repairing and renewing are reserved thereover by transfers of the said part.
- 6 (02.04.2009) Where transfers of the parts tinted green on the title plan include shared accessways and shared footpaths rights of way are reserved thereover.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 PROPRIETOR: MORRIS HOMES (SOUTH) LIMITED (Co. Regn. No. 02315106) of Morland, Altrincham Road, Wilmslow, Cheshire SK9 5NW.
- 2 The price stated to have been paid on 17 August 2007 for the land in this title and in CB281929 was £7,807,942 plus £1,366,390 VAT.
- 3 (13.11.2007) RESTRICTION: No disposition of the registered estate (except a charge) by the proprietor of the registered estate is to be completed by registration without a certificate signed by Terence Roland Attle or his conveyancer or signed by the conveyancer to the registered proprietor that the provisions of a Transfer dated 17 August 2007 have not been breached.
- 4 (16.02.2010) RESTRICTION: No Transfer or Lease of the registered estate by the proprietor of the registered estate is to be completed by registration without a certificate signed on behalf of Waterbeach Level Internal Drainage Board of the Drainage Office, Main Street,

B: Proprietorship Register continued

Prickwillow, Ely, Cambridge CB7 4UN by its Engineer or Conveyancer or a certificate signed by the Conveyancer to the registered proprietor that the provisions of clause 4(d) of a Deed dated 29 January 2010 and made between (1)Waterbeach Level Internal Drainage Board and (2)Morris Homes (South) Limited have been complied with or do not apply.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 The land tinted blue on the title plan is subject to the following rights reserved by a Conveyance thereof and other land dated 7 August 1964 made between (1) The Cambridge and District Co-operative Society Limited (the Company) and (2) Terence Roland Attle (Purchaser):-

"SUBJECT as to the roadway coloured brown on the said plan to such rights of way as are now subsisting over and along the same"

NOTE:- The roadway coloured brown referred to comprises the land tinted blue on the title plan and other land.
- 2 A Deed of Grant dated 24 May 2007 made between (1) David James Attle and Linda Attle (2) Terence Roland Attle and (3) David James Attle and Christopher Nigel Attle contains restrictive covenants.

NOTE: Copy filed under CB283202.
- 3 The land is subject to the rights granted by the Deed of Grant dated 24 May 2007 referred to above.
- 4 A Transfer of the land in this title and other land dated 17 August 2007 made between (1) Terence Roland Attle and others and (2) Morris Homes (South) Limited contains restrictive covenants.

NOTE: Copy filed.
- 5 The land is subject to the rights reserved by the Transfer dated 17 August 2007 referred to above.

NOTE: The rights reserved by clause 13.4 of the Transfer dated 17 August 2007 are in part granted over title number CB283202 first registered with possessory title on 24 March 2004 and are consequently not binding on any right or interest adverse to or in derogation of the title of the first registered proprietor of that title.
- 6 (02.04.2009) The estate roads and footpaths are subject to rights of way.
- 7 (02.04.2009) The land is subject to rights in respect of drainage, water, electricity, telephone cables and other services.
- 8 (02.04.2009) The parts of the land which adjoin the parts removed are subject to rights of support, protection and where applicable, overhang and protrusion.
- 9 (02.04.2009) The parts of the land which adjoin the parts removed are subject to rights of access and entry for repair and maintenance.
- 10 (02.04.2009) The visitors parking spaces are subject to rights of user.
- 11 (12.10.2009) UNILATERAL NOTICE in respect of an Agreement for sale of plot 83 dated 6 August 2009 and made between (1) Morris Homes (East Midlands) limited and (2) Richard Young and Lorraine Young.

NOTE: Copy filed.
- 12 (12.10.2009) BENEFICIARY: Richard Young and Lorraine Young of care of Page Property Lawyers of Compass House, Vision Park, Histon, Cambridge CB24 9AD and 11 High Street, Histon, Cambridge CB24 9JD.
- 13 (16.02.2010) An Agreement dated 29 January 2010 made between (1)Waterbeach Level Internal Drainage Board and (2)Morris Homes (South)

C: Charges Register continued

Limited relates to surface water drainage and contains covenants.

NOTE: Copy filed under CB281929.

- 14 (29.03.2010) The land is subject to the rights granted by a Transfer of the land hatched blue on the title plan dated 19 March 2010 made between (1) Morris Homes (South) Limited and (2) EDF Energy Networks (EPN) Plc.

The said Deed also contains restrictive covenants by the transferor.

NOTE:-Copy filed under CB352892.

- 15 (12.07.2010) UNILATERAL NOTICE affecting the land edged blue on the title plan in respect of a contract to purchase dated 28 May 2010 made between (1) Morris Homes (South) Limited and (2) Jephson Homes Housing Association Limited, the applicant has the benefit of rights granted by the contract and there are obligations on the part of the seller.

NOTE: Copy filed.

- 16 (12.07.2010) BENEFICIARY: Jephson Homes Housing Association Limited of 5 Mill Square, Wolverton Mill South, Milton Keynes MK12 5ZD.

- 17 (30.04.2019) The land is subject to any rights that are granted by a Deed of Grant dated 30 April 2019 made between (1) Morris Homes (Eastern) Limited and (2) Anglian Water Services Limited and affect the registered land.

The said Deed also contains restrictive covenants by the grantor.

NOTE:-Copy filed.

End of register

